

REMARKS

The following remarks are in response to the Office Action dated 6 June 2005.

Claim Rejections – 35 U.S.C. § 101

Claims 1-5, 7-15 were rejected as directed to non-statutory subject. Applicant has amended the preamble of independent claim 1 to state “the thoracic cavity of an individual.” This amendment is not for patentability purposes but to clarify that the Applicant does not intend to claim any part of an individual and is not suggesting that an individual is part of the present invention. Applicant requests the Examiner to take judicial notice that it is understood that the various stated body parts, such as neck, back, waist, shoulders, sternum, and skin, are common knowledge to be part of an individual and should not be considered claimed elements. Any reference to a body part should be understood as being used only for spatial orientation and should not be considered as part of the claim. Applicant requests the rejection be removed and the claims be passed to allowance.

Claim Objections

Claim 1 has been amended from “a chest on” to “on a chest.” Applicant requests the objection to claims 1-5, 7-15 be removed and the claims be passed to allowance.

Claim Rejections – 35 U.S.C. § 103

Claims 1-5, 7-15 were rejected under 35 U.S.C. § 103 (a) as being unpatentable over Talish et al. ('070) in view of Peterson et al. ('619). Applicant has amended independent claim 1, to state that the invention is directed towards the application of ultrasound energy to increase the blood flow of the individual. Talish discusses and is related to using ultrasonic energy for treatment of reflex sympathetic disorder (RSD). Talish does not suggest or teach any use by the described device other than for treatment of RSD and the operating frequencies of Talish would not be within the range recited in the present invention. As such, Talish does not suggest or teach placement of a device for interaction with the thoracic cavity to provide increased blood flow of the individual. It would not have been obvious to combine Talish with Peterson to arrive at the present invention, since there is no suggestion or teaching in Peterson to modify a device used for treatment of RSD for increasing circulation as presently discussed.

Applicant would also like to clarify the recited elements of the claims. Specifically, the discussion of a circulating fluid with respect to claims 7-9. The fluid is not used to replace the ultrasound gel, but rather is used to accommodate different chest contours (and breast contours,

especially in female patients) to form an acoustically conducting path between the transducer face and the bladder face, as discussed on page 10, lines 15-27 of the application. The fluid does not replace ultrasound gel as a coupling agent, which is still used to assure appropriate acoustic coupling between the bladder membrane and the patient's skin, as stated in the application at page 13, lines 21-29. Accordingly, Applicant does not believe this added feature is shown in the cited prior art, and this feature further patentably distinguishes the present invention from the prior art. This feature is especially beneficial in that it allows easier use in non-clinical or mobile settings than the cited prior art.

Claim 13 has been amended so that the term "elongated" is clarified as to the shape of the housing and not towards and intended use. This amendment should not be considered as being done for patentability purposes but to merely clarify the claim language.

Applicant believes the claims as currently presented patentably distinguish the present invention from the prior art and respectfully requests that amended claim 1, along with dependant claims 2-5 and 7-15, be passed to allowance.

Respectfully Submitted,

By _____

Patrick J. Fleis, Reg. No. 55,185

RYAN KROMHOLZ & MANION, S.C.
Post Office Box 26618
Milwaukee, Wisconsin 53226
(262) 783 - 1300
6 September 2005
Customer No.: 26308

TM1 3/9345.17121-CON 1/05/006 AMENDMENT B

Enclosures: Amendment Transmittal Letter
 Return Postcard